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106TH CONGRESS
1ST SESSION

H. R. 723

To establish a program of pharmacy assistance fee for elderly persons who have no health insurance coverage.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1999

Mr. KENNEDY of Rhode Island (for himself, Mr. CAMPBELL, Mr. ALLEN, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Commerce

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A BILL

To establish a program of pharmacy assistance fee for elderly persons who have no health insurance coverage.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Making Affordable Prescriptions Available for Seniors Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) although prescription drugs represent one of the most frequently used medical care interventions in treating common acute and chronic diseases,

many Americans, especially the elderly and other vulnerable populations, are unable to afford their medication because of excessive and persistent drug price inflation;

(2) between 1985 and 1991, the prices of the 20 top selling prescription drugs, which account for almost a third of prescription sales, rose 79 percent—nearly 4 times the general rate of inflation;

(3) prescription drug manufacturers continue to make enormous profits on the backs of the elderly, poor, and other vulnerable populations that are unable to afford their medications;

(4) because of the limited availability of private or public prescription drug coverage for the elderly, prescription drugs represent the highest out-of-pocket medical care cost for 3 of 4 elderly patients, surpassed only by the cost of long-term care services;

(5) individuals over the age of 65 fill an average of 15 prescriptions a year to treat chronic health conditions compared to an annual average of 5 prescriptions for those under the age of 65;

(6) 90 percent of Americans who are 60 years of age or older take one or more medications daily;

(7) The United States spends several billion dollars on biomedical and related health research

and in 1994 the United States spent $33 billion on such research and the pharmaceutical industry only spent $14 billion on such research in such year; and

(8) The pharmaceutical industry makes large profits off of the sale of drugs produced from the benefit of research paid for by the United States and, aside from royalties, none of such profits are reimbursed back to the United States taxpayers.

SEC. 3. PRESCRIPTION DRUG ASSISTANCE PROGRAM.

The Public Health Service Act is amended by adding at the end the following:

"TITLE XXVIII—PRESCRIPTION DRUG ASSISTANCE PROGRAM

"SEC. 2801. ESTABLISHMENT.

"(a) IN GENERAL.—The Secretary shall establish a program of pharmacy assistance (referred to in this title as the 'program') for eligible persons.

"(b) ADMINISTRATION.—Pharmacy assistance shall be provided under the program to eligible persons in the manner that the Secretary determines to be the most cost-effective, including indemnification, vouchers, coupons, or direct provider reimbursement through the claims payment system under title XIX of the Social Security Act, except that no system of administration shall make direct cash payments to an eligible person before the presen-

tation of a receipt or other invoice for the purchase of any covered benefit. The Secretary may implement utilization review, clinical management, and other administrative techniques used in the management of the pharmacy benefits program under title XIX of the Social Security Act in order to identify and reduce drug interactions, overutilizations, therapeutic duplications, or early refills.

"(c) INCOME LEVELS.—The Secretary may authorize local councils on aging, community action agencies, and home care corporations to assist the Secretary in determining if persons meet the income eligibility requirements of the program.

"(d) FEE.—The Secretary may require an annual enrollment fee in an amount not to exceed $15 to be paid to defray the administrative expenses of the program.

"(e) OTHER PROGRAM ITEMS.—The Secretary shall develop copayment requirements and may establish deductibles to control program expenses. Copayment amounts may vary to promote the purchase of generic drugs and may be based on a sliding income scale, except that copayment shall not be more than $10 per prescription.

"SEC. 2802. PROFITS FROM RESEARCH.

"(a) IN GENERAL.—Except as provided in paragraph (2), any manufacturer of a drug which submits, in connec-

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tion with an application for such drug under section 351 of this Act or section 505 of the Federal Food, Drug, and Cosmetic Act, the results of research—

"(1) carried out by an entity of the National Institutes of Health, or

"(2) under an agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980,

shall not receive approval of such application until the manufacturer enters into an agreement with the Secretary under which the manufacturer will pay to the Secretary 7 percent of the gross amount received by the manufacturer from sales of such drug. Such agreement shall specify the manner in which such gross amount shall be determined.

"(b) EXCEPTION.—The Secretary may waive the application of a subsection (a) to a manufacturer of a drug when the Secretary determines that it would be in the public interest to exempt such manufacturer.

"SEC. 2803. DEFINITIONS.

"For purposes of section 2801:

"(1) COVERED BENEFITS.—The term 'covered benefits' means prescription drugs, including insulin syringes and insulin needles, and insulin, eligible for reimbursement under the program as defined by the

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Secretary, except that within each class of maintenance drugs eligible for reimbursement all such prescription drugs that have been approved safe and effective by the Federal Food and Drug Administration or are otherwise legally marketed in the United States shall be covered under the program. The term does not include experimental drugs or over-the-counter pharmaceutical products except insulin. The Secretary may restrict covered benefits to prescription drugs manufactured by pharmaceutical companies who agree to provide manufacturer rebates.

"(2) ELIGIBLE PERSON.—The term 'eligible person' means an individual who is 65 years or older with no existing pharmacy benefits or coverage from an insurance policy supplemental to benefits under title XVIII of the Social Security Act or pharmacy benefits or coverage from any other third party payor and one whose annual income does not exceed 175 percent of the Federal poverty guidelines.

"(3) PHARMACY ASSISTANCE.—The term 'pharmacy assistance' means an amount not exceeding $500 in any year for each eligible person to assist in the purchase of covered benefits.".

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